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March 31, 2006

VIA E-FILING AND HAND DELIVERY

The Honorable Kent A. Jordan
United States District Court
for the District of Delaware
844 N. King Street
Wilmington, DE 19801

Re: Novozymes A/S v. Genencor International, Inc. et al.
C.A. No. 05-160 (KAJ)

Dear Judge Jordan:

This letter is submitted on behalf of Novozymes A/S. We write to request the Court's guidance on the best method to present to the Court the results of Novozymes' analysis of the product sample Genencor provided to Novozymes at the end of trial. Although we had hoped that the parties could present the Court with a consensual solution to this issue, the parties have been unable to reach agreement and so we ask the Court for its assistance.

Following the four day trial in the above action which ended March 9, the Court held the trial record open to allow the parties to resolve an issue regarding the amino acid sequence of alpha-amylase in Genencor's commercial product GZYME-G997 ("G997"). Tr. 150:9-157:5 (Transcript excerpts are attached hereto as Exhibit A). This amino acid sequence is relevant because, under Novozymes' claim construction, it constitutes the "parent" sequence to which the "variant" accused Spezyme Ethyl product is compared for purposes of determining infringement.

At trial, Novozymes presented testimony through Dr. Christian Jorgensen regarding the amino acid sequence of the alpha-amylase present in Genencor's G997 product. The experimental protocol used by Dr. Jorgensen (TE-206, attached hereto as Exhibit B) and the results he obtained in testing a sample obtained before commencement of the litigation (TE-199, attached hereto as Exhibit C) were admitted into evidence. See Exhibit A at 71:3-71:9 (TE-206 admitted over objection) and 95:4-15 (TE-199 admitted without objection). This testimony and testing was necessitated by Genencor's last-minute withdrawal of a promised stipulation as to the amino acid sequence of the alpha amylase in its G997 product. See Plaintiff's Motion *In Limine* to Preclude Defendants from Disputing Evidence on the Amino Acid Sequence of G997 Proffered by Novozymes (attached hereto as Exhibit D).

At trial, the Court expressed concern about a possible chain of custody argument by Genencor regarding the G997 sample tested by Dr. Jorgensen. See Exhibit A at 153:24-155:4.

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To resolve the chain of custody issue, the parties agreed that Genencor would provide a commercial sample of G997 directly to Novozymes in Denmark so that Novozymes could test the sample and determine its amino acid sequence. The agreement was put on the record:

MR TELLEKSON: The second thing is we expect to provide some corroborating testimony through Dr. Arnold in her testimony, but assuming there is [*sic*] still not willing to stipulate at that point, what we would ask is that they [Genencor] provide us with a sample in a commercial jar labeled within 24 hours and – of G997. And that we have two weeks to analyze it so there is no doubt, no question that we had it done exactly right.

MR. ADAMO: Deal.

THE COURT: All right. Done. Good.

Exhibit A at 156:2-11.

Dr. Jorgensen received the commercial sample provided by Genecor and tested it according to the same procedure he testified to when testing the G997 sample obtained previously by Novozymes. Exhibit A 65:16-67:2. The amino acid sequence found for the alpha amylase in the sample provided by Genencor is exactly the same as the sequence Dr. Jorgensen found when he tested the sample provided to him by Novozymes (the sample about which he testified at trial).

Mindful of the April 14, 2006 deadline for exchanging opening post-trial briefs, Novozymes promptly provided Genencor with Dr. Jorgensen's Declaration describing that analysis and the results obtained (copy attached as Exhibit E). Novozymes asked Genencor to stipulate that the amino acid sequence of G997 is that determined by Dr. Jorgensen in his analysis of the sample Genencor provided. When Genencor refused, Novozymes asked Genencor to stipulate to the admissibility of the Declaration as part of the trial record, and that the amino acid sequence reported in the Declaration is the amino acid sequence of the alpha-amylase found in the G997 commercial product. Genencor refused again, and said that it would only stipulate that:

the amino acid sequence listed at exhibit 1 to [the 4th Jorgensen Declaration] is an amino acid sequence obtained by Novozymes by analysis of the sample of GZYME-G997 provided by Genencor, that analysis being performed in a manner consistent with the analysis described in TE 206.

See attached email correspondence (Exhibit F).

Genencor has not asserted any basis for challenging the veracity of Dr. Jorgensen's Declaration, and has not sought any discovery concerning the Declaration. Nor has Genencor offered any explanation for why the single alpha-amylase amino acid sequence that Dr.

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Jorgensen determined from his analysis of the commercial Genencor sample is not the sequence of G997 alpha-amylase.

Accordingly, Novozymes respectfully requests that Dr. Jorgensen's Declaration be admitted into evidence as TE-226. Alternatively, if Genencor continues to object to the admission of this evidence, Novozymes would request that the Court allow it to present this evidence through supplementary testimony of Dr. Jorgensen concerning his testing of the sample Genencor provided and his results. Novozymes anticipates that the testimony would require approximately 15-30 minutes.

Counsel is available at the Court's convenience if the Court would like further information on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'R. Bissell', written over a horizontal line.

Rolin P. Bissell (#4478)

RPB:smf
Enclosures

cc: Donald E. Reid, Esquire (via email)

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List of Attachments

Exhibit A: Excerpts of Transcript of Bench Trial held on March 6-9, 2006;

Exhibit B: TE-206 (experimental protocol used by Dr. Christian Jorgensen to analyze G997);

Exhibit C: TE-199 (amino acid sequence of G997 as determined by Dr. Jorgensen);

Exhibit D: "Plaintiff's Motion *In Limine* to Preclude Defendants from Disputing Evidence on the Amino Acid Sequence of G997 Proffered by Novozymes," submitted with Proposed Pretrial Order (D.I. 85);

Exhibit E: Fourth Declaration of Christian Isaak Jorgensen (TE-226 for identification); and

Exhibit F: Email correspondence between attorneys for Novozymes and Genencor.